

Review of Population Standards and Introduction to “Communities of Interest”



REDISTRICTING COMMISSION OF THE CITY OF SAN DIEGO

Sharon Spivak, Deputy City Attorney
March 17, 2011

Legal Requirements - Review



- Redistricting Plan must comply with:
 - U.S. Constitution
 - Federal Voting Rights Act of 1965
 - San Diego City Charter §§ 5 and 5.1
 - Related statutes and case law interpreting redistricting plans and criteria

Legal Requirements - Review



- Nine districts to be created
- **Population:**
 - Each has one-ninth of City's population.
 - Strive for as little deviation in population as possible between largest and smallest district.
- **Equal Protection:**
 - “One Person, One Vote” - Achieve substantial equality of population in the districts. Goal is equal representation.

Population Equality – Charter Requirements



- San Diego Charter:
 - ✦ Population equality requirement:
 - “Districts shall each contain, as nearly as practicable, one-ninth of the total population of the City as shown by the Federal census.” (Section 5.1)
 - “In any redistricting, the districts shall be . . . made as equal in population as shown by the census reports . . . as possible.” (Section 5)

Review of Deviation Standard



- Deviation =
 - Difference between total population of most heavily and least populated districts after plan is drawn
 - Expressed as a percentage and by number of people
 - Population figures and deviation must be detailed in the plan
 - **Goal is least deviation possible**

2010 Census Data Sets Population Goal



○ San Diego's population = 1,307,402

○ Divide by 9 =

145,267

- ✦ This is Commission's "magic number" for population equality of the districts
- ✦ Measure deviation from this number between the largest and smallest districts the Commission draws

Population Equality: 2000 Commission



District	Total Population	Optimal	Total Deviation	Percent Deviation
1	157,301	152,925	4,376	2.86
2	148,503	152,925	-4,422	2.89
3	156,828	152,925	3,902	2.55
4	153,888	152,925	963	0.63
5	159,524	152,925	6,599	4.32
6	149,307	152,925	-3,618	-2.37
7	146,853	152,925	-6,072	-3.97
8	151,199	152,925	-1,726	-1.13
Total	1,223,403		12,671	8.29

Census Data on Population Change



<u>2000 Population</u>	<u>2010 Population</u>	<u>Change</u>
D1 157,301	199,464	+42,163
D2 148,503	171,363	+22,860
D3 156,828	152,208	-4,620
D4 153,888	152,932	-956
D5 159,524	166,681	+7,157
D6 149,307	156,331	+7,024
D7 146,853	147,348	+495
D8 151,199	161,075	+9,876

(Source: SANDAG)

Note: Deviation currently = 52,116 between D1 & D7
New goal for 9 districts = 145,267 per district

Traditional Redistricting Principles: Review



- Districts are to have equal population, but also:
 - ✦ Be composed of contiguous territory
 - ✦ Be geographically compact
 - ✦ **Preserve “identifiable communities of interest”**
 - ✦ Have reasonable access between population centers
 - ✦ Be bounded by natural boundaries, street lines and/or City boundary lines

What Are Communities of Interest?



- Charter § 5.1 – Single reference in Charter
 - “To the extent it is practical to do so, districts shall: preserve identifiable communities of interest . . .”
 - Term is not defined in the Charter
 - ✦ Lack of definition gives some flexibility to Commission to determine what is or is not a “community of interest”
 - ✦ Phrase “to the extent it is *practical*” also provides flexibility

U.S. Supreme Court – “Actual Shared Interests”



- Court recognizes importance of “communities of interest” but does not define exactly what they are
- Principle: “respect for . . . communities defined by actual shared interests.”

Miller v. Johnson, 515 U.S. 900, 916 (1995)

What Are Communities of Interest?



- One summary: “A region which is defined by actual shared interests or by some common thread of social, economic or political interests.”
- Examples:
 - Income levels
 - Educational backgrounds
 - Housing patterns, living conditions (urban, suburban, rural)
 - Cultural and language backgrounds
 - Employment and economic patterns (how employed?)
 - Health, environmental conditions
 - Issues of concern (crime)
- ✦ Source: The Impact of Redistricting in Your Community: A Guide to Redistricting (Sponsored by MALDEF, NAACP & NAPALC)

California – Prop. 20 Amends Cal. Constitution



“(4) The geographic integrity of any city, county, city and county, local neighborhood, or local community of interest shall be respected in a manner that minimizes their division to the extent possible without violating the requirements of any of the preceding subdivisions.”

Article XXI of the California Constitution, § 2(d)(4)

California – Prop. 20 Amends Cal. Constitution



“A community of interest is a contiguous population which shares common social and economic interests that should be included within a single district for purposes of its effective and fair representation.”

Article XXI of the California Constitution, § 2(d)(4)

California – Prop. 20 Amends Cal. Constitution



“Examples of such shared interests are those common to an urban area, a rural area, an industrial area, or an agricultural area, and those common to areas in which the people share similar living standards, use the same transportation facilities, have similar work opportunities, or have access to the same media of communication relevant to the election process. Communities of interest shall not include relationships with political parties, incumbents, or political candidates.”

Article XXI of the California Constitution, § 2(d)(4)

U.S. Supreme Court - Considerations



- Common interests must extend beyond race alone.
- Show the common interest beyond race and also show that line-drawers were aware of the common interest at the time they drew the plan
- Ex: Justification for the community of interest was rejected in *Bush v. Vera*:
 - Evidence of commonality not “available to the Legislature in any organized fashion before [plan] was created.” 517 U.S. 952, 966 (1996)

Communities of Interest - Timing



Consider communities of interest at the time you draw the lines.

Cases confirm that line-drawers must consider identification of communities of interest at the time the lines are drawn, rather than reciting “communities of interest” as a pretext to justify a plan after it is drawn and challenged in court

Communities of Interest - Evidence



- Consider Communities of Interest through:
 - Census data
 - Testimony of the public at all hearings
 - City planning documents (neighborhood boundaries, planning group boundaries, geographical boundaries, shared geographical features)
 - Other data gathered from SANDAG, other sources, mapping consultant

Communities of Interest



- Remember:
 - Communities of Interest are subordinate to population equality and adherence to the Voting Rights Act (“one person, one vote”)
 - Must consider all traditional redistricting principles in considering where to draw the lines
 - Some communities of interest may request that they not be kept together, but split to affect more than one Council district
 - Charter provides the Commission with some flexibility by not defining the term